

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

JEWELL OTIS,)
)
Plaintiff,)
)
) CIVIL ACTION NO. _____
)
) JURY DEMAND
)
vs.)
)
)
FRESENIUS MEDICAL CARE)
)
)
)
Defendant.)

COMPLAINT

Comes now the plaintiff, Jewell Otis, by and through the undersigned counsel, and for complaint against the Defendant complains as follows:

NATURE OF THE ACTION

1. Plaintiff JEWELL OTIS brings this cause of action under 42 U.S.C. Section 2000(e) alleging violations of rights guaranteed under Title VII of the Civil Rights Act of 1964, as amended, based upon discrimination and retaliation.
2. Further, it is an action under the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of age and to provide appropriate relief to JEWELL OTIS. As alleged of greater particularity in paragraphs (1- 16) below JEWELL OTIS alleges that Defendant failed to hire Ms. Otis for Clinical Care Manager

because of her age, then 58 and or in retaliation for her filing an EEOC Complaint in July, 2010.

JURISDICTION AND VENUE

3. Jurisdiction of this Court is invoked pursuant to U.S.C. §§ 451, 1331, 1337 and 1343. Venue is proper within this district pursuant to 28 U.S.C. Section 1391 (b) as the unlawful practices occurred in the Middle District of Tennessee and/or the plaintiff resided in this district at the time of the alleged acts.

PARTIES

4. The plaintiff, JEWELL OTIS, hereinafter and occasionally ("Ms. Otis") was at all times relevant a citizen and resident of Nashville, Davidson County, Tennessee.

5. At all relevant times, defendant, Fresenius Medical Care, hereinafter and occasionally (the "Employer") has continuously been doing business in the State of Tennessee and the cities of Nashville and Madison, and has continuously had at least 500 employees.

6. At all relevant times, defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630 (b)(g) and (h).

STATEMENT OF CLAIMS

7. Plaintiff is a black female who is engaged in protected activity by filing an EEOC Complaint in July 2010 alleging race discrimination in non-selection for the position of Clinical Care Manager at the Hickory Hollow Clinic.

8. Plaintiff is a Registered Nurse with approximately over 20 years experience.

9. Plaintiff began her employment with the Employer in July, 2005 at Vanderbilt Dialysis East/FMC.

10. Around March of 2006, Plaintiff expressed her interest in the position of Clinic Care Manager and was told she had not completed one year of employment at that time.

11. Around April 2006, Plaintiff functioned as Interim Facility Manager.

12. Around July 2006, Ms. Otis applied for the position of Clinical Care Manager and Employer passed over Ms. Otis in favor of an outside candidate for the same position who was younger and had less experience than Ms. Otis.

13. Around December of 2008, Ms. Otis was appointed Interim Facility Manager for the second time in her tenure with employer.

14. Around May 2009, Plaintiff was written up and derogatory information was placed within her personnel file after testifying in a co-worker's racial discrimination lawsuit against Employer.

15. In October 2011, Plaintiff interviewed for the Clinical Manager position at the Hickory Hollow Clinic.

16. Around January 2012, Defendant passed over Ms. Otis in favor of a candidate who was younger and white.

17. The effect of the employment practices complained of in Paragraphs 10-16 has been to deprive Ms. Otis of equal employment opportunities and otherwise adversely affect her status as employee because of her race and age.

18. The unlawful employment practices complained of in Paragraphs 10-16 has been to deprive Ms. Otis of equal employment opportunities and otherwise adversely affect her status as an employee because of retaliation.

19. The unlawful employment practices complained of in Paragraphs 14 and 16 above were and are willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626 (b).

20. Plaintiff alleges that as a result of the unlawful employment practices of the Defendant she has suffered and will continue to suffer damages, to wit: lost wages, front and back pay, lost benefits, lost employment opportunities, and compensatory damages for emotional distress, pain and suffering, embarrassment and humiliation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff JEWELL OTIS prays for the following relief:

- A. That service of process issue as to the defendant as set forth in Rule 4 of the Federal Rules of Civil Procedure.
- B. That Plaintiff Recover her compensatory damages;
- C. That Plaintiff recover front pay and back pay;
- D. That Plaintiff be awarded any and all damages to which she is entitled to under, U.S.C. §§ 2000(e), as amended and all other applicable laws;
- E. That Plaintiff be awarded her attorney fees and costs incurred in prosecuting this action;
- F. That Plaintiff recover prejudgment and post judgment interest;

- G. That the Court award Plaintiff such other, further, general and different relief to which she may show herself entitled;
- H. That a jury be empaneled to try this cause.

Respectfully Submitted,
Stewart, Johnson, Conner & Manson, LLP.

/s/R.A.Stewart

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